

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1461

AN ACT

REPEALING SECTION 41-3006.22, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.01; AMENDING TITLE 42, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-2077; RELATING TO THE DEPARTMENT OF REVENUE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 41-3006.22, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
5 amended by adding section 41-3016.01, to read:

6 41-3016.01. Department of revenue; termination July 1, 2016

7 A. THE DEPARTMENT OF REVENUE TERMINATES ON JULY 1, 2016.

8 B. TITLE 42, CHAPTER 1, ARTICLE 1 IS REPEALED ON JANUARY 1, 2017.

9 Sec. 3. Title 42, chapter 2, article 2, Arizona Revised Statutes, is
10 amended by adding section 42-2077, to read:

11 42-2077. New interpretation or application of law; affirmative
12 defense; definition

13 A. UNLESS EXPRESSLY AUTHORIZED BY LAW, THE DEPARTMENT SHALL NOT APPLY
14 ANY NEWLY ENACTED LAW RETROACTIVELY OR IN A MANNER THAT WILL PENALIZE A
15 TAXPAYER FOR COMPLYING WITH PRIOR LAW.

16 B. IF THE DEPARTMENT ADOPTS A NEW INTERPRETATION OR APPLICATION OF ANY
17 PROVISION OF THIS TITLE OR TITLE 43 OR DETERMINES THAT ANY OF THOSE
18 PROVISIONS APPLIES TO A NEW OR ADDITIONAL CATEGORY OR TYPE OF TAXPAYER, AND
19 THE CHANGE IN INTERPRETATION OR APPLICATION IS NOT DUE TO A CHANGE IN THE
20 LAW:

21 1. THE CHANGE IN INTERPRETATION OR APPLICATION APPLIES PROSPECTIVELY
22 UNLESS IT IS FAVORABLE TO TAXPAYERS.

23 2. THE DEPARTMENT SHALL NOT ASSESS ANY TAX, PENALTY OR INTEREST
24 RETROACTIVELY BASED ON THE CHANGE IN INTERPRETATION OR APPLICATION.

25 3. THE CHANGE IS AN AFFIRMATIVE DEFENSE IN ANY ADMINISTRATIVE OR
26 JUDICIAL ACTION FOR RETROACTIVE ASSESSMENT OF TAX, INTEREST AND PENALTIES TO
27 TAXABLE PERIODS BEFORE THE NEW INTERPRETATION OR APPLICATION WAS ADOPTED.

28 C. TAX LIABILITIES, PENALTIES AND INTEREST PAID BEFORE A NEW
29 INTERPRETATION OR APPLICATION OF CHAPTER 5 OF THIS TITLE BY THE DEPARTMENT
30 SHALL NOT BE REFUNDED UNLESS THE TAXPAYER REQUESTING THE REFUND PROVIDES
31 EVIDENCE SATISFACTORY TO THE DEPARTMENT THAT THE AMOUNTS WILL BE REFUNDED TO
32 THE PERSON WHO PAID AN ADDED CHARGE TO COVER THE TAX.

33 D. FOR THE PURPOSES OF THIS SECTION:

34 1. "NEW INTERPRETATION OR APPLICATION" MEANS POLICIES AND PROCEDURES
35 ADOPTED BY ADMINISTRATIVE RULE, TAX RULING, TAX PROCEDURE OR INSTRUCTIONS TO
36 A TAX RETURN. "NEW APPLICATION OR INTERPRETATION" DOES NOT INCLUDE THE
37 AMENDMENT OR REVISION OF AN EXISTING TAX RULING, TAX PROCEDURE OR TAX RETURN
38 INSTRUCTIONS THAT MERELY CLARIFIES THE DEPARTMENT'S POSITION AND DOES NOT
39 ADOPT A POSITION DIFFERENT FROM THE POSITION TAKEN IN THE EXISTING TAX
40 RULING, TAX PROCEDURE OR INSTRUCTIONS TO THE TAX RETURN FOR THAT TAX YEAR.

41 2. "NEW OR ADDITIONAL CATEGORY OR TYPE OF BUSINESS" MEANS A CATEGORY
42 OR TYPE OF BUSINESS THAT DOES NOT FALL WITHIN A BUSINESS TYPE OR CATEGORY
43 THAT IS CURRENTLY SUBJECT TO TAX. "NEW OR ADDITIONAL CATEGORY OR TYPE OF
44 BUSINESS" DOES NOT INCLUDE A TYPE OF BUSINESS THAT MAY HAVE EVOLVED FROM NEW

1 TECHNOLOGY AND FALLS WITHIN A BUSINESS TYPE OR CATEGORY THAT IS CURRENTLY
2 SUBJECT TO TAX.

3 Sec. 4. Retroactivity

4 The provisions of this act are effective retroactively to July 1, 2006.